

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Volha Shauchenka	Team: Squad #8	CCRB Case #: 201807281	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/27/2018 12:01 AM	Location of Incident: [REDACTED]	Precinct: 83	18 Mo. SOL 1/27/2020	EO SOL 1/27/2020	
Date/Time CV Reported Mon, 09/03/2018 2:22 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 09/03/2018 2:22 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul Mastronardi	06320	955147	083 PCT
2. POM Scott Sohn	22227	955515	083 PCT
3. POM Nicholas Ramirez	15809	957983	083 PCT
4. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Adam Dumelle	00271	948001	083 PCT
2. LT Olvin Serrano	00000	939452	083 PCT
3. POM Daniel Atherley	01422	956399	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Ramirez	Force: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Nicholas Ramirez	Discourtesy: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Nicholas Ramirez	Abuse: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Nicholas Ramirez	Abuse: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez threatened to arrest § 87(2)(b) [REDACTED] Unknown.	[REDACTED]
E. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
F. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) Unknown.	
G. An officer	Abuse: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b)	
H. An officer	Abuse: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b) Unknown.	
I. An officer	Force: In the rear of the 83rd Precinct stationhouse, an officer used physical force against § 87(2)(b)	
J. An officer	Force: In the rear of the 83rd Precinct stationhouse, an officer used physical force against § 87(2)(b) Unknown.	
K.POM Paul Mastronardi	Discourtesy: In the rear of the 83rd Precinct stationhouse, Police Officer Paul Mastronardi spoke discourteously to § 87(2)(b)	
L. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
M. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) Unknown.	
N. An officer	Abuse: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b)	
O. An officer	Abuse: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b) Unknown.	
P. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
Q. An officer	Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) Unknown.	
R.POM Scott Sohn	Abuse: In the rear of 83rd Precinct stationhouse, Police Officer Scott Sohn threatened to arrest § 87(2)(b)	
S.POM Scott Sohn	Abuse: In the rear of 83rd Precinct stationhouse, Police Officer Scott Sohn threatened to arrest § 87(2)(b) Unknown.	
T.POM Paul Mastronardi	Force: In front of the 83rd Precinct stationhouse, Police Officer Paul Mastronardi used physical force against § 87(2)(b)	
U. An officer	Discourtesy: In front of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
V. An officer	Discourtesy: In front of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)	
W. An officer	Force: In the front of the 83rd Precinct stationhouse, an officer restricted § 87(2)(b) s breathing.	
X. An officer	Force: In front of the 83rd Precinct stationhouse, an officer used physical force against § 87(2)(b)	

## Case Summary

On September 3, 2018, § 87(2)(b) filed this complaint via the CCRB online complaint submission form on behalf of herself and her son § 87(2)(b) who was § 87(2)(b) years old at the time of the incident. It was later determined that § 87(2)(b)'s friend, known to him as § 87(2)(b) is also a victim in the case.

On July 26, 2018, at approximately 11:00 p.m., § 87(2)(b) together with her two sons § 87(2)(b) and § 87(2)(b) daughters § 87(2)(b) and § 87(2)(b) her § 87(2)(b) - and § 87(2)(b) -old sons, niece and nephew § 87(2)(b) and § 87(2)(b) § 87(2)(b)'s boyfriend § 87(2)(b) and other individuals, were at the 83<sup>rd</sup> Precinct stationhouse giving statements to the Detective Squad regarding a murder they had witnessed earlier in the day. They were being released one by one. When § 87(2)(b) (hereinafter § 87(2)(b) and § 87(2)(b) left the stationhouse, they could not find their bicycles, which they allegedly had left in the lobby of the stationhouse. They went to the rear parking lot to look for them. There, PO Nicholas Ramirez of the same precinct allegedly pushed § 87(2)(b) with his chest telling him, "Get the fuck out of here bitch," (**Allegation A: Force,** § 87(2)(g) **Allegation B: Discourtesy,** § 87(2)(g) PO Ramirez also threatened to arrest both § 87(2)(b) and § 87(2)(b) (**Allegations C and D: Abuse of Authority,** § 87(2)(g) § 87(2)(b) and § 87(2)(b) stepped out of the parking lot and an unidentified officer came out of an unmarked car and allegedly said to § 87(2)(b) and § 87(2)(b) "Get the fuck out before something happens to you," (**Allegations E and F: Discourtesy,** § 87(2)(g) **Allegations G and H: Abuse of Authority,** § 87(2)(g) ). The same officer also allegedly pushed § 87(2)(b) and § 87(2)(b) (**Allegations I and J: Force,** § 87(2)(g) ). PO Paul Mastronardi of the same command came from an unknown direction and allegedly said to § 87(2)(b) "Get the fuck out," (**Allegation K: Discourtesy,** § 87(2)(g) § 87(2)(b)

When § 87(2)(b) and § 87(2)(b) were on the sidewalk, another unidentified officer approached them in an unmarked van and allegedly said, "Get the fuck out little kids before something happens to ya," (**Allegations L and M: Discourtesy,** § 87(2)(g) § 87(2)(b); **Allegations N and O: Abuse of Authority,** § 87(2)(g) ). Another unidentified officer came from an unknown direction and allegedly said, "Get the fuck out of here little kids," (**Allegations P and Q: Discourtesy,** § 87(2)(g) ). At some point, PO Scott Sohn of the same command also allegedly told § 87(2)(b) and § 87(2)(b) that if they did not leave, they could be arrested for trespassing (**Allegations R and S: Abuse of Authority,** § 87(2)(g) § 87(2)(b)

On July 27, 2018, at approximately 12:01 a.m., after leaving the parking lot, § 87(2)(b) went to the front of the stationhouse where PO Mastronardi arrested him for trespassing and took him to the ground (**Allegation T: Force,** § 87(2)(g) ). After § 87(2)(b) was taken to the ground, an unidentified officer allegedly told him to "shut the fuck up" and "put your fucking hands behind your back" (**Allegations U and V, Discourtesy,** § 87(2)(g) § 87(2)(b) ). When § 87(2)(b) was being handcuffed, an unidentified officer placed his knee between § 87(2)(b)'s shoulder blades, thus restricting his breathing for approximately 30 seconds (**Allegation W: Force,** § 87(2)(g) ). At some point during § 87(2)(b)'s arrest, an unidentified officer pulled § 87(2)(b) away from the scene of the arrest (**Allegation X: Force,** § 87(2)(g) § 87(2)(b) ). § 87(2)(b) was ultimately handcuffed and brought into the stationhouse. Although § 87(2)(b) was initially arrested for trespassing, his arrest was ultimately voided and he was released [PD 01]. Instead, § 87(2)(b) an individual known to § 87(2)(b) was arrested for petit larceny in regards to the stolen bike [NYPD 14].

The beginning and the aftermath of § 87(2)(b)'s arrest were recorded by PO Mastronardi's body-worn camera (BWC) [BR 16 and 17, *Originals*]. No other BWC footage was provided to the CCRB. Stationhouse surveillance footage was not available for this incident.

### **Findings and Recommendations**

**Allegation (A) Force: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez used physical force against § 87(2)(b)**

**Allegation (B) Discourtesy: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez spoke discourteously to § 87(2)(b)**

**Allegation (C) Abuse of Authority: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez threatened to arrest § 87(2)(b)**

**Allegation (D) Abuse of Authority: In the rear of the 83rd Precinct stationhouse, Police Officer Nicholas Ramirez threatened to arrest § 87(2)(b) Unknown.**

In his verified statement to the CCRB, § 87(2)(b) stated that he and § 87(2)(b) brought several bikes to the stationhouse, and they were instructed to leave them in the lobby by an officer inside the stationhouse [BR 04]. After providing their statements to the 83<sup>rd</sup> Precinct Detective Squad, § 87(2)(b) and § 87(2)(b) could not find their bikes and were told by an officer sitting behind the desk that they could check the rear parking lot. § 87(2)(b) and § 87(2)(b) entered the rear parking lot through open gates. § 87(2)(b) noted he did not observe any signs posted indicating that it was private property). § 87(2)(b) and § 87(2)(b) took approximately five steps into the parking lot when they encountered multiple officers. An officer, described as a male with light tan skin, 5'10" tall, 180 pounds, in his mid-20s, wearing black pants, black or camouflage T-shirt, a bulletproof vest and a baseball cap, identified by the investigation as PO Ramirez, approached § 87(2)(b) pushed him with his chest and said, "Get the fuck out of here bitch." PO Ramirez pushed § 87(2)(b) three times and § 87(2)(b) backed away each time he was pushed. At some point, PO Ramirez challenged § 87(2)(b) to hit him and took his shield off his chest. Neither § 87(2)(b) nor § 87(2)(b) hit him and responded that PO Ramirez was still a police officer and they could not hit him. § 87(2)(b) and § 87(2)(b) ultimately stepped out of the parking lot. None of the other civilians who were at the stationhouse with § 87(2)(b) and § 87(2)(b) were in the parking lot at the time. § 87(2)(b), § 87(2)(g)

Absent any additional information for § 87(2)(b) the investigation could not establish contact with him.

When interviewed at the CCRB, PO Ramirez stated that he and his anti-crime partners PO Mastronardi and PO Sohn were at the stationhouse at the time [BR 21]. He walked to the rear parking lot with PO Sohn and some other officers who he did not recall. PO Ramirez observed § 87(2)(b) and § 87(2)(b) looking around in the vicinity of the garage. PO Ramirez noted that although the gate to the parking lot is open, there are signs stating, "No trespassing. Police officers only," located near the entrance. When the officers approached § 87(2)(b) and § 87(2)(b) they asked what they were doing there. § 87(2)(b) and § 87(2)(b) explained they were looking for a bike which was stolen from them. Their story did not seem credible to PO Ramirez. Both § 87(2)(b) and § 87(2)(b) said they saw bikes through the gate and wanted to check if they were theirs. PO Ramirez confirmed there were some bikes standing by the garage but he did not recall if they were NYPD property. PO Ramirez and PO Sohn told § 87(2)(b) and § 87(2)(b)

multiple times they had to “get out of there” otherwise they would be arrested for trespassing multiple times. PO Ramirez stated that his demeanor was calm but § 87(2)(b) and § 87(2)(b) were stating that the officers were not tough without their shields. After two-three minutes, § 87(2)(b) and § 87(2)(b) left the parking lot on their own volition. PO Ramirez denied pushing § 87(2)(b) or telling him, “Get the fuck out of here bitch.” PO Ramirez did not record the incident on his BWC since it progressed fast and he did not have a chance to activate it.

PO Mastronardi and PO Sohn, who acknowledged interacting with § 87(2)(b) and § 87(2)(b) denied observing any officers push § 87(2)(b) or make the alleged statement [BR 19, 20].

When interviewed at the CCRB, PO Daniel Atherley of the same command stated he drove § 87(2)(b) and a number of their relatives to the stationhouse in a van so that they could give statements to the Detective Squad [BR 24]. He recalled that some of the teenagers in the group had several bikes with them, which they left in the lobby of the stationhouse. PO Atherley did not recall anyone instructing the civilians where the bikes should be left. He then left the stationhouse and denied being present in the parking lot.

According to NYPD records, PO Ramirez is a § 87(2)(b) at the time of the incident [NYPD 07]. Since he confirmed his interaction with § 87(2)(b) and § 87(2)(b) and is the only officer closely matching the description provided by § 87(2)(b) Allegations A and B are being pleaded against him. Although § 87(2)(b) did not allege that PO Ramirez threatened to arrest him and § 87(2)(b) PO Ramirez acknowledged doing so himself, therefore, Allegations C and D are also being pleaded against PO Ramirez.

According to New York State Penal Law §140.10, a person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property which is fenced or otherwise enclosed in a manner designated to exclude intruders [BR 28].

§ 87(2)(b), § 87(2)(g)

**Allegation (E) Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)**

**Allegation (F) Discourtesy: In the rear of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b) Unknown.**

**Allegation (G) Abuse of Authority: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b)**

**Allegation (H) Abuse of Authority: In the rear of the 83rd Precinct stationhouse, an officer threatened to arrest § 87(2)(b) Unknown.**

**Allegation (I) Force: In the rear of the 83rd Precinct stationhouse, an officer used physical force against § 87(2)(b)**



seeing them in the parking lot but remembered telling § 87(2)(b) and § 87(2)(b) to leave several times. § 87(2)(b) and § 87(2)(b) were refusing to do so. PO Mastronardi did not recall using any profanity towards them nor did he hear any officers do so. PO Mastronardi did not recall hearing any officers threaten to arrest § 87(2)(b) nor did he recall observing any officers having any physical contact with § 87(2)(b) and § 87(2)(b). Ultimately, PO Mastronardi left the parking lot to talk to a supervisor about § 87(2)(b) and § 87(2)(b).

§ 87(2)(g)  
PO Sohn did not recall who else he went to the parking lot with or why he went there. Upon observing § 87(2)(b) and § 87(2)(b) PO Sohn told them to leave but they began cursing at the officers. While § 87(2)(b) and § 87(2)(b) said they were looking for something, PO Sohn did not recall what it was. PO Sohn told § 87(2)(b) and § 87(2)(b) to leave several times, but they were refusing to do so. Therefore, PO Sohn told them if they did not leave, they could be arrested for trespass. § 87(2)(b) and § 87(2)(b) eventually walked out of the parking lot. PO Sohn denied using profanity towards § 87(2)(b) or using any force towards them.

Sgt. Adam Dumelle of the same command, who is a white male and was in plain clothes at the time of the incident, acknowledged being at the stationhouse at the time of the incident but denied being present in the parking lot [BR 18, NYPD 07].

Lt. Olvin Serrano of the same command, who is a § 87(2)(b) and was in plain clothes, also acknowledged being at the stationhouse at the time of the incident but denied being present in the parking lot [BR 22, NYPD 07].

PO Collin Gordon, who is a § 87(2)(b) and was in uniform on the incident date, did not recall his whereabouts at the time of the incident and denied having any interaction with § 87(2)(b) and § 87(2)(b) [BR 20, NYPD 07].

Video recorded by PO Mastronardi's BWC that captured the aftermath of the incident, attached to IA 127, depicts several unidentified plainclothes officers walking inside the lobby of the stationhouse [BR 16]. None of the officers interviewed could identify them and all believed they were from a specialized command like Narcotics, Gang or Vice [BR 18, 19, 21, 22, 24]. At 1:10, § 87(2)(b) while talking to an officer not in the camera view, starts recounting that several officers used profanity towards him and pushed him in the parking lot. He points at some officers with his head by none of them are in the camera view.

83<sup>rd</sup> Precinct Tour 3 Roll Call for July 26, 2018 does not list any officers working in plain clothes [NYPD 02]. When interviewed at the CCRB, Sgt. Dumelle, who is an anti-crime supervisor, stated that his team had left the stationhouse at approximately 11:35 p.m. upon finishing their tour [BR 18]. According to Tour 1 Roll Call for July 27, 2018, the only plainclothes officers working were PO Ramirez, PO Mastronardi and PO Sohn. Several officers who were interviewed mentioned that due to a homicide that occurred earlier in the day, numerous officers from multiple commands were at the stationhouse at the time of the incident [BR 18, 19, 22, 24].

Since PO Mastronardi fits the description of the officer who allegedly came out from an unknown direction and stated, "Get the fuck out," and was later identified by § 87(2)(b) as the officer who attempted to place § 87(2)(b) in handcuffs, Allegation K is being pleaded against him. Although § 87(2)(b) did not allege that PO Sohn threatened to arrest him and § 87(2)(b) since PO Sohn does not fit the description of the subject officers, PO Sohn acknowledged doing so himself, therefore, Allegations R and S are also being pleaded PO Sohn.

According to New York State Penal Law §140.10, a person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property which is fenced or otherwise enclosed in a manner designated to exclude intruders [BR 28].

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (T) Force: In front of the 83rd Precinct stationhouse, Police Officer Paul Mastronardi used physical force against § 87(2)(b)**

**Allegation (U) Discourtesy: In front of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)**

**Allegation (V) Discourtesy: In front of the 83rd Precinct stationhouse, an officer spoke discourteously to § 87(2)(b)**

**Allegation (W) Force: In front of the 83rd Precinct stationhouse, an officer restricted § 87(2)(b)'s breathing.**

**Allegation (X) Force: In front of the 83rd Precinct stationhouse, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after he and § 87(2)(b) left the stationhouse, they observed an individual known to him as § 87(2)(b) riding a bike that looked like his [BR 04]. After a search and foot pursuit, § 87(2)(b) and § 87(2)(b) found § 87(2)(b) in a park near the stationhouse, from where § 87(2)(b) ran straight into the 83<sup>rd</sup> Precinct stationhouse. § 87(2)(b) followed him inside and explained to the officers what had happened. They instructed § 87(2)(b) to sit in the waiting area and § 87(2)(b) - to step outside while they review the surveillance cameras to determine what happened. § 87(2)(b) and the rest of his family were waiting in front of the stationhouse when an officer approached § 87(2)(b) from the back and attempted to place one of his arms behind it. The officer did not inform § 87(2)(b) why he approached him nor did he issue him any commands. Since § 87(2)(b) did not know what was happening, he pulled his arm away



from the officer and stepped forward telling him to “get off.” § 87(2)(b) did not do anything else with his body at that time. Approximately 20 officers approached § 87(2)(b) and one of them threw § 87(2)(b) to the ground after grabbing him in a “bearhug.” § 87(2)(b) landed on his stomach and attempted to move his head to see who was around him. An officer placed his knee on his cheek and another one placed his knee between § 87(2)(b)'s shoulder blades for about 30 seconds to a minute. The officers told § 87(2)(b) to stop resisting, and § 87(2)(b) informed the officers he could not breathe and he was not resisting. In response, an officer told § 87(2)(b) to “shut the fuck up”. § 87(2)(b) was handcuffed and brought inside the stationhouse. Ultimately, the officers reviewed the surveillance footage, released § 87(2)(b) and arrested § 87(2)(b) for stealing the bike. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleged that he sustained injuries as a result of the incident [BR 04]. He provided photos taken by his mother on the following day that depict abrasions to his neck, face, elbow, rib cage area and a hip [BR 07-13]. On § 87(2)(b), § 87(2)(b) and § 87(2)(b) went to § 87(2)(b) in Brooklyn complaining that § 87(2)(b) had been assaulted by police [PD 02]. He was diagnosed with a contusion of right elbow and contusions to multiple sites as a result of an assault [PD 02]. The injuries depicted on the photos were documented in the medical records as well.

§ 87(2)(b), § 87(2)(g)

When § 87(2)(b) stood outside, an officer described as white or Hispanic male, approximately 5’2” tall, 180-190 pounds, in his early 30s, in plain clothes, passed § 87(2)(b) and said, “The little one with the white pants”. The officer grabbed § 87(2)(b) without any warning and § 87(2)(b) moved his body and arm away. § 87(2)(b) told the officer that § 87(2)(b) is a minor and he told her to mind her own business. Then, between 20 to 30 officers approached § 87(2)(b) and he was taken to the ground. She observed an officer described as a Hispanic male, approximately 5’8” tall, heavy set, 220-230 pounds, in his 30s-40s, in plain clothes, place a knee on § 87(2)(b)'s back and then other officers place § 87(2)(b)'s hands behind his back. At that time, § 87(2)(b) was just moving his head around. § 87(2)(b) did not hear any officers issue any commands to § 87(2)(b) or use any profanity towards him. § 87(2)(b) continued to plead with the officers that § 87(2)(b) was only § 87(2)(b) years old, and an officer, described as white or Hispanic male, approximately 5’8” tall, 180-190 pounds, with black hair, in his 30s, in uniform, pulled her away from § 87(2)(b) by her arm. § 87(2)(b) was standing within 10 feet from § 87(2)(b) and never approached closer. When she was pulled away, she moved back together with the officer. § 87(2)(b) felt pain in her wrists as a result of the officer’s action but did not seek medical attention.

§ 87(2)(b), § 87(2)(g)

She stated that two officers took § 87(2)(b) to the ground. Once he was there, he was moving his shoulders and telling the officers to get off him. § 87(2)(b) also observed an officer who she could not describe put his knee on § 87(2)(b)'s upper back for a couple of seconds. § 87(2)(b) did not hear officers issue § 87(2)(b) any commands or use any profanity towards him. § 87(2)(b) did not observe any officers pull § 87(2)(b) away from § 87(2)(b) either.

§ 87(2)(b) and § 87(2)(b) were unavailable for the investigation; no contact information was provided for § 87(2)(b) and no additional information was located for him [See detailed IA 201].

PO Mastronardi stated that after he observed § 87(2)(b) and § 87(2)(b) in the parking lot, he went inside the stationhouse and spoke to Lt. Serrano, who instructed him to arrest § 87(2)(b) for trespassing since the precinct was on high alert due to the homicide [BR 19]. PO Mastronardi did not recall why he was instructed to arrest § 87(2)(b) specifically as opposed to § 87(2)(b). PO Mastronardi went to the front of the stationhouse and grabbed § 87(2)(b) by his wrist or upper bicep. PO Mastronardi believed that § 87(2)(b) saw him since he immediately started pushing away with his body and moving his arms. PO Mastronardi did not recall whether he had any conversation with § 87(2)(b) prior to attempting to handcuff him and whether he told him he was under arrest. Other plainclothes officers from a different command approached § 87(2)(b) and PO Mastronardi, and all of them fell to the ground. PO Mastronardi was not certain whether the takedown was intentional or happened as a result of their momentum. Other officers handcuffed § 87(2)(b) within seconds. PO Mastronardi did not recall what actions he took after the fall nor did he recall if § 87(2)(b) further offered any resistance. PO Mastronardi did not recall using his knees to hold § 87(2)(b) nor did he recall if other officers used any force towards him. PO Mastronardi did not recall § 87(2)(b) indicating he could not breathe and denied restricting his breathing in any manner or observing other officers do so. PO Mastronardi did not recall using any profanity towards § 87(2)(b) nor did he hear other officers do so. PO Mastronardi was not focused on what happened to the other civilians on the scene and could not see whether § 87(2)(b) was pulled away. PO Mastronardi did not recall who brought § 87(2)(b) to the stationhouse. Approximately 20 minutes after § 87(2)(b)'s arrest, PO Mastronardi learned that § 87(2)(b)'s mother was a witness in the homicide and it was in the officers' best interest to release § 87(2)(b) and void his arrest. PO Mastronardi did not recall observing any injuries to § 87(2)(b) or hear him complain of any injuries.

A Threat, Resistance and Injury report (TRI) § 87(2)(b) prepared by PO Mastronardi notes that § 87(2)(b) was taken down, used hand strikes and was wrestling/grappling with the officers and pushing them [NYPD 01]. Upon reviewing the report during his interview, PO Mastronardi stated he had no independent recollection of § 87(2)(b) using any hand strikes against officers [BR 19]. He also stated he marked that § 87(2)(b) was taken down since they fell to the ground, regardless of whether the action was intentional or not.

PO Ramirez testified that he along with other officers he did not recall were instructed to place § 87(2)(b) and § 87(2)(b) under arrest for trespassing either by Lt. Serrano or Sgt. Dumelle [BR 21]. PO Ramirez, PO Mastronardi, and PO Sohn approached § 87(2)(b) and PO Mastronardi took him by his wrist and informed him that the officers were going to place him in handcuffs for an investigation. § 87(2)(b) moved his arms away and tensed up, refusing to be handcuffed. Ultimately, PO Mastronardi and § 87(2)(b) ended up on the ground but PO Ramirez did not recall how it occurred. PO Ramirez and uniformed officers performed crowd control instructing other civilians, who were getting close, to step back. PO Ramirez did not observe any officers pull § 87(2)(b) away from the scene nor did he recall her getting involved in the arrest. After some time, PO Ramirez went to check on PO Mastronardi who was still attempting to handcuff § 87(2)(b). PO Ramirez did not recall what specific actions PO Mastronardi was taking at the time and believed that § 87(2)(b) was no longer resisting once

he was on the ground. PO Mastronardi was able to handcuff § 87(2)(b) and picked him up. PO Ramirez denied observing any officers place their knees on § 87(2)(b) or hearing § 87(2)(b) complain that he could not breathe. PO Ramirez denied restricting § 87(2)(b)'s breathing in any manner or using any profanity towards him. He did not hear any officers use any profanity towards him either. PO Mastronardi and PO Ramirez brought § 87(2)(b) to the stationhouse and PO Ramirez's interaction with him ended. PO Mastronardi did not record the incident on his BWC as it progressed quickly.

PO Sohn stated that after § 87(2)(b) and § 87(2)(b) left the parking lot, he returned to the stationhouse and went to the desk [BR 23]. PO Sohn did not recall if he spoke with anyone about what occurred in the parking lot. A few minutes later, PO Sohn heard commotion in the front of the stationhouse and observed one individual being placed under arrest. PO Sohn did not recall if the individual was involved in the incident in the parking lot nor did he know the reason for his arrest. PO Sohn did not recall who placed the individual under arrest and noted he focused on performing crowd control by issuing verbal commands. PO Sohn was not involved in the arrest and stated he did not know what happened between the individual, § 87(2)(b) and the officers. PO Sohn denied observing any officers restricting § 87(2)(b)'s breathing or hearing them use any profanity towards him. He did not recall observing § 87(2)(b) getting involved in the arrest or being pulled away from the scene. PO Sohn believed that he recorded the incident on his BWC but did not review it. Although the original BWC request did not reveal any footage from PO Sohn, an additional request was submitted and its results will be added to the case file upon receipt.

Sgt. Dumelle testified that he ran outside the stationhouse only to observe the aftermath of § 87(2)(b)'s arrest and denied witnessing the alleged misconduct [BR 18]. He initially testified that he did not recall any details about § 87(2)(b)'s arrest or his involvement in the incident in the parking lot. When presented with § 87(2)(b)'s voided and § 87(2)(b), § 87(2)(a) 160.50 that lists Sgt. Dumelle as the verifying supervisor during the interview, he stated he spoke to Lt. Serrano and then just told the arresting officer to put his name on the report [PD 01]. Sgt. Dumelle did not review the report before it was voided. Sgt. Dumelle did not record the incident on his BWC.

Lt. Serrano stated he was at the stationhouse by the desk when an individual entered inside and said that § 87(2)(b) stole a bike [BR 22]. PO Mastronardi and PO Sohn exited the stationhouse to arrest § 87(2)(b). Lt. Serrano did not recall if any other officers assisted them. Lt. Serrano did not recall if he instructed the officers to arrest § 87(2)(b). Lt. Serrano went outside to observe the arrest and stated that § 87(2)(b) resisted. However, Lt. Serrano did not recall in what manner. Lt. Serrano did not recall if the officers had any conversation with § 87(2)(b) prior to arresting him. Although Lt. Serrano recalled § 87(2)(b) being on the ground, he did not recall how he got there. Lt. Serrano did not observe how § 87(2)(b) was handcuffed since his view was obstructed by numerous civilians on the scene, nor did he observe § 87(2)(b) being pulled away from the scene. Lt. Serrano denied assisting officers in handcuffing § 87(2)(b). Lt. Serrano was unaware of what happened to § 87(2)(b) after the arrest and stated he did not instruct any officers to release him and void his arrest. Lt. Serrano was unaware of any prior interactions § 87(2)(b) had with the officers in the parking lot of the stationhouse. Lt. Serrano did not record the incident on his BWC.

As noted earlier, PO Gordon denied being involved in any parts of this incident [BR 20].

PO Atherley stated he was at the stationhouse when someone instructed PO Mastronardi and PO Ramirez to arrest § 87(2)(b) for a reason unknown to him [BR 24]. When PO

Mastronardi and PO Ramirez attempted to grab § 87(2)(b)'s hand, he pulled it away. PO Atherley noted he was standing near § 87(2)(b) and the officers at the time and did not recall the officers issue § 87(2)(b) any commands before grabbing him or explaining the reason for the arrest. After PO Mastronardi and PO Ramirez attempted to grab § 87(2)(b) the second time, all three of them fell to the ground, which PO Atherley attributed to the officers' momentum carrying them over. Other officers, who PO Atherley did not recall, assisted PO Mastronardi and PO Ramirez in handcuffing § 87(2)(b). PO Atherley denied being involved in it. PO Atherley did not see what actions the officers took during the arrest and denied observing the alleged misconduct. He did not observe § 87(2)(b) being pulled away either. After the arrest, PO Atherley observed some redness to § 87(2)(b)'s face, which he believed was sustained as a result of the fall. PO Atherley did not record the incident on his BWC since it progressed very quickly.

According to video footage recorded by PO Mastronardi's BWC, attached to IA 128, he activated the camera before approaching § 87(2)(b) in front of the stationhouse [BR 17]. PO Mastronardi approaches § 87(2)(b) from the back, after which the camera starts shaking. Due to the 30-second buffer, no audio is captured in the beginning. When the audio starts, multiple people are heard yelling, and at 30 seconds, an unidentified male officer is heard saying, "Put your fucking hands behind your back." At 0:40, an officer asks § 87(2)(b) why he is fighting, and another officer responds, "Cause he is an idiot." § 87(2)(b) is then heard saying, "Get the fuck off, nigga," and an officer responds, "Don't act like this." Multiple civilians are heard yelling at the officers and asking why § 87(2)(b) is being arrested. At 0:46, an unidentified female states, "... you can't talk like that," and § 87(2)(b) states, "Get the fuck off me." The image in this video never becomes steady or depicts the details of the arrests.

Since PO Mastronardi acknowledged being the first to approach § 87(2)(b) and prepared a TRI in regards, coupled with the fact that § 87(2)(b) identified him as the officer who took § 87(2)(b) to the ground, Allegation T is being pleaded against him. Although § 87(2)(b) did not allege that an officer told him, "Put your fucking hands behind your back," an additional discourtesy allegation is being pleaded since it was recorded by the BWC.

According to NYPD Patrol Guide Procedure 221-01, an officer may use necessary force to ensure the safety of an officer and his partners or to gain compliance [BR 29].

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the second CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties [BR 25]. Their previous complaint was referred to the Office of the Chief of the Department.
- No CCRB history could be located for § 87(2)(b) as no other identifying information was provided for him.
- PO Ramirez has been a member of service for four years and this is the first CCRB complaint to which he has been a party.
- PO Sohn has been a member of service for five years and has been a subject in four other CCRB complaints and nine allegations, none of which were substantiated. 201606810 and 201705494 involved threat of arrest allegations against PO Sohn that were both closed as complainant uncooperative.
- PO Mastronardi has been a member of service for five years and has been a subject in five other CCRB complaints containing seven allegations, none of which were substantiated. Cases 201501378, 201705494, and 201707840 involved physical force allegations against PO Mastronardi that were closed as complainant uncooperative, complainant uncooperative and unsubstantiated, respectively.

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- On April 18, 2019, a request to determine if a Notice of Claim was filed was submitted; confirmation from the New York City Office of the Comptroller will be forwarded upon receipt [BR 26].
- According to the Office of Court Administration, § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City [BR 27]. No information could be located for § 87(2)(b) for the reasons mentioned earlier.

Squad No.: 8

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_

	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date